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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,805	01/22/2002	Hugo Pimienta	AOS-P0001	7420

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EXAMINER	
SAVIC, BORIS	
ART UNIT	**PAPER NUMBER**
3714	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/055,805	PIMIENTA, HUGO	
	Examiner	Art Unit	
	Boris Savic	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-18,20-35,37-49,53 and 54* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-18,20-35,37-49,53 and 54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/15/2002*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to applicant's amendment received on 9/8/2005.

Response to Amendment

It has been noted that claims 1, 10, 13, 16, 18, 20, 30, 33, and 35 have been amended. Claims 53 and 54 are new. Claims 3-9, 11-12, 14-15, 17, 21-29, 31-32, 34, and 37-49 are original. Claims 2, 19, 36, and 50-52 are cancelled.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because it depends on cancelled claim 2.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **35, 37, 39** and **41** are rejected under 35 U.S.C. 102(e) as being anticipated by ***Cummings*** et al. (6,183,361).

Regarding claims **35, 37, 39,** and **41**, Cummings discloses a computerized gaming apparatus/method that comprises a processor; a memory coupled to the processor (Fig. 3); a gaming engine configured to interface with a gaming interface via an interconnection fabric, said gaming engine configured to obtain a wager from a players; obtain a predicted outcome from the players; simulate a random chance event by executing a random number generator when said gaming engine has obtained said wager and said predicted outcome; obtain an actual simulated outcome of said random chance event using output generated by said random number generator; inform said players of a win if said predicted outcome matches said actual outcome (Fig. 1; Fig. 4; col. 6,lines 11-67 through col. 7, lines 1-4).

The selection of a winner based on the actual event outcome and the charging of a variable game fee or the establishment 's share as equivalently described is presented in at least the abstract of Cummings.

Newly amended subject matter directed to the "odd result" determining the winner has been interpreted as referring to the winner of the Cummings as the applicant has not set forth any claim structure that would presently support the present definition of an "odd result" as set forth in the specification.

The subject matter including the charging of a game fee amount is taught in Cummings as a house share (Abstract).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims **1, 3-11, 13-18, 20-28, 30-34, 38, 40, 42-43** and **45-49** are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Cummings*** et al. (6,183,361).

Regarding claims **1, 3-4, 7, 9, 18, 20-21, 24,** and **26** Cummings teaches a computerized gaming apparatus/method that comprises a processor; a memory coupled to the processor (Fig. 3); a gaming engine configured to interface with a gaming interface via an interconnection fabric, said gaming engine configured to obtain a wager from a players; obtain a predicted outcome from the players; simulate a random chance event by executing a random number generator when said gaming engine has obtained said wager and said predicted outcome; obtain an actual simulated outcome of said random chance event using output generated by said random number generator; inform said players of a win if said predicted outcome matches said actual outcome (Fig. 1; Fig. 4; col. 6,lines 11-67 through col. 7, lines 1-4).

Newly amended subject matter directed to an "odd number" of players is encompassed in the broader plurality of players previously demonstrated in the abstract and figure 1 of Cummings.

The random number generator execution on a gaming engine separate from the interface is considered encompassed in the random number generator located on the server as shown in figure 3 of Cummings.

The selection of a winner based on the actual event outcome and the charging of a variable game fee or the establishment 's share as equivalently described is presented in at least the abstract of Cummings.

Newly amended subject matter directed to the "odd result" determining the winner has been interpreted as referring to the winner of the Cummings as the applicant has not set forth any claim structure that would presently support the present definition of an "odd result" as set forth in the specification.

The subject matter including the charging of a game fee amount is taught in Cummings as a house share (Abstract).

Cummings does not teach a system that determines the winner of the odd number of players from the actual outcome and when the winner cannot be determined re-executes the random number generator to obtain a second actual outcome until a winner is determined. It is well known in the art if a winner cannot be determined, the random number generator will re-execute again and again until a winner is determined. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to add this feature of a random number generator re-executing again.

Regarding claims **5** and **22**, Cummings teaches all the limitations of the claims as discussed above. Cummings is silent regarding the feature of the wager comprising credits earned by the player for performing an action. The examiner has previously taken notice that it is well known in the art in lottery/slot gaming to allow players to wager previously won credits and this feature is now considered applicant admitted prior art. It would have been obvious to a person of ordinary skill in the art at the time of the

invention to include this feature in Cummings to provide an additional incentive for the players to continue game play; thereby, increasing the profits for the gaming establishment.

Regarding claims **6, 23,** and **38**, Cummings teaches all the limitations of the claims as discussed above. While Cummings teaches the feature of a wager, Cummings lacks teaching the use of fun money for the wager. As previously stated it is well known in the gaming art to use play money (in such games as Monopoly™, Operation™, etc.) this feature was previously presented and is now considered applicant admitted prior art. It would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize play money instead of actual money in Cummings to increase the excitement and decrease disappointment for players that are new to the game.

Regarding claims **8, 25,** and **40**, Cummings teaches all the limitations of the claims as discussed above. Cummings lacks the explicit disclosure of deactivating the play button when the wager is above a certain threshold. Cummings is functionally capable of achieving this function. It is merely a matter of programming the gaming software to start/stop game play when a certain wager is received. It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate this feature into Cummings in order to prevent players from wagering and losing excessive amounts of money. This would increase player satisfaction after playing the game.

Regarding claim **10**, Cummings teaches all the limitations of the claims as discussed above. Cummings is silent regarding a communication component for said odd number of players to communicate amongst them. It is well known in the art that the gaming interfaces now days have capability of having players communicate with each other. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to add this feature of communication.

Regarding claims **27** and **42**, Cummings teaches all the limitations of the claims as discussed above. Cummings is silent regarding the explicit teaching of an animation window for displaying a visual depiction of the random event simulated by the random number generator. The examiner has previously taken notice that it is well known in the art of gaming devices to display various animations in order to attract the player's attention. Therefore, for this reason it would have been obvious to a person of ordinary skill in the art at the time of the invention to include this feature in Cummings.

Regarding claims **11, 17, 28, 34, 43,** and **49,** Cummings teaches all the limitations of the claims as discussed above. Cummings is silent regarding the random chance event being binary. However, the examiner has previously taken notice that this is a well known feature in random chance card games, whereby the player wagers on whether the outcome will be hi or lo and this feature is now considered applicant admitted prior art. It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate this binary feature in Cummings to increase the odds of the players choosing a winning outcome.

Regarding claims **13-16, 30-33**, and **45-48**, Cummings teaches all the limitations of the claims as discussed above. Cummings is silent regarding the feature of deducting a game fee. The examiner has previously taken notice that it is well known in the art of network gaming to charge and deduct a game fee (particularly in network tournament type games) and this feature is now considered applicant admitted prior art. It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the feature of deducting a game fee in Cummings to increase the profits of the gaming establishment.

Claims **12, 29,** and **44** are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Cummings*** et al. (6,183,361) in view of ***Gutknecht*** (5,154,420).

Regarding claims **12, 29,** and **44,** Cummings teaches all the limitations of the claims as discussed above. Cummings lacks the disclosure of the random event being simulated coin flips. In an analogous random chance game, Gutknecht teaches this feature (abstract; Fig. 1, #52). It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate this feature, as taught by Gutknecht, in Cummings to increase the familiarity of the game for players; thereby, increasing player participation.

Claims **53** and **54** are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Cummings*** et al. (6,183,361) in view of ***Vancura*** et al. (6,916,245).

Regarding claim **53**, Cummings teaches all the limitations of the claims as discussed above. Cummings lacks disclosing first player issuing a challenge to said second player via said communication interface. Vancura discloses accepting wagers

from one or more players on the at least one community event. Generating at least one chance event during the playing of the game of chance, and rewarding the one or more players from a prize pool should the at least one selected community event occur during the chance event by distributing winnings according to the amounts wagered by each of the one or more wagering players (col. 5, lines 28-35). The apparatus 10 includes a pay table 12 that has the relative ranking of the one or more preselected community events. The pay table 12 displays to the one or more players the pay out each might receive for correctly wagering on each of the community events. If the game of chance is a live table game including cards, then a wagering place is provided on the game table of the apparatus 10 for each of the respective players to place a bet in the form of a gambling chip or token (col. 6, lines 45-56). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to add this feature of challenge or betting amongst each other as taught by Vancura into the invention of Cummings because most of the betting and gambling games have players betting against each other and the dealer. This would make the game more attractable and it will bring more money to the table.

Regarding claim **54**, Cumming teaches all the limitations of the claims as discussed above. Cummings is silent regarding the random chance event being binary and wager being over binary event. However, the examiner has previously taken notice that this is a well known feature in random chance card games, whereby the player wagers on whether the outcome will be hi or lo and this feature is now considered applicant admitted prior art. It would have been obvious to a person of ordinary skill in

the art at the time of the invention to incorporate this binary feature in Cummings to increase the odds of the players choosing a winning outcome.

Response to Arguments

Applicant's remarks have been fully considered but they are deemed moot in view of the new grounds of rejection.

The rejections pursuant to 35 USC 112, 1st and 2nd paragraph have been withdrawn. New 35 USC 112, 2nd rejection has been added to the office action.

Applicant states that Cummings does not disclose a random number generator that executes on a gaming engine separable from a gaming interface; a system that re-executes the random number generator to obtain a second actual outcome until a winner is determined; and description or support for one player challenging another player to wager on a given random change event. Examiner disagrees. Examiner states that Applicant should refer to the Office Action for the answers to the arguments.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 5,098,107 teaches a card wagering game.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boris Savic whose telephone number is (571) 272-2849. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Ronald Laneau
Primary Examiner
4/14/07